

FF-SHOP Issuer Frequently Asked Questions

Selected Responses

July 5, 2013

Federally-Facilitated-Small Business Health Options Program (FF-SHOP) Issuer Frequently Asked Questions

Frequently Asked Questions (FAQs #2)

Release Date: July 5, 2013

Technical Guidance for the FF-SHOP

Eligibility and Participation Requirements

Q1: How will the FF-SHOP prevent a new group from enrolling into an HMO plan when out-of-state?

A1: There will not be a mechanism in place in 2014 to prevent an employer from enrolling in a plan without network access. There will be a comparison tool on HealthCare.gov providing plan-specific information to enrollees. Employers and employees will be able to navigate to Issuers' websites for provider network information. CMS will work with Issuers to ensure educational information is provided to employers about the consequences of selecting a QHP for their employees that does not provide network access for an out-of-state employee's primary worksite.

Q2: What role will Agents and Brokers play in the FF-SHOP?

A2: Agents and Brokers will play a key role in the FF-SHOP—helping employers and employees understand the SHOP Marketplace and assisting them complete online applications for coverage. Please refer to this resource document for additional information on the role of Agents, Brokers, and Web-Brokers in Health Insurance Marketplaces:
<http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/agent-broker-5-1-2013.pdf>

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Q3: Will the geographic area premium rating factor in the small group market be based on the geographic area of the employee or that of the employer? Will this approach apply only for plans offered through the FF-SHOPs or will it apply market-wide?

A3: As proposed in the Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, Premium Stabilization Programs, and Market Standards published on June 19, 2013 (Federal Register / Vol. 78, No. 118), the geographic area premium rating factor must be based on the group policy holder's principal business address in each state. This approach would apply both inside and outside of the FF-SHOP.

Q4: Can an employer participate in multiple SHOPs?

A4: Multi-state employers may participate in multiple SHOPs [see 45 CFR § 155.710(3)], however, an employer will be limited to establishing one FF-SHOP account per state.

Q5: How will out-of-state employees be counted when assessing participation requirements?

A5: Employers with worksites in more than one state may establish either one FF-SHOP account serving all work locations or establish multiple SHOP accounts in each state where employees have a primary worksite. When one account is established, employees in all states will be considered when calculating an employer's FF-SHOP participation rate. When multiple accounts are established, employees on each employee roster in each state will be considered separately when calculating an employer's FF-SHOP participation rate.

Q6: How may QHPs differ for employers offering QHPs in multiple SHOPs?

A6: Network requirements, service areas, etc. of a QHP will be determined by the SHOP certifying the QHP. If an employer allows out-of-state employees to enroll in a QHP through a SHOP serving the employee's primary worksite (and not the SHOP serving the employer's headquarters), then the employee will receive coverage through a QHP that may have a different premium, benefit benchmark, rating criteria, etc., than a QHP certified through the SHOP serving the employer's headquarters.

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Q7: Will the FF-SHOP be verifying members for dual coverage (coverage on more than one group or individual plan) when calculating participation percentages?

A7: The FF-SHOP is expecting a response for each employee on the roster (e.g., whether the employee has other group coverage or public coverage, etc.).

Q8: Will an employer be able to participate in the FF-SHOP if it does not meet the 70 percent minimum participation requirement?

A8: For coverage effective January 1, the guaranteed availability requirements in the Public Health Service Act (PHSA) § 2702 will apply, as required in 45 CFR § 147.104(b)(1)(i). During this special enrollment period (November 15 - December 15), an employer is not subject to a minimum participation requirement and any employer otherwise qualifying for FF-SHOP coverage will be able to enroll in the FF-SHOP regardless of its level of employee participation. Outside of this period, the minimum participation requirement will be enforced for new groups applying for FF-SHOP coverage. This guaranteed availability requirement will be in effect as of November 15 - December 15, 2013.

Outside of the annual special enrollment period, the FF-SHOP will hold an employer's application until the employer meets the 70 percent minimum participation requirement (or the threshold required in that employer's state). The FF-SHOP will not send any information to Issuers until the group has met the minimum participation requirement.

Q9: Will groups not meeting the minimum participation rate be able to reapply within the same calendar year?

A9: Yes. An employer can reapply within the same calendar year. The FF-SHOP will re-open the enrollment period for those wishing to reapply.

Q10: Will groups falling below the minimum participation rate during a plan year be allowed to continue their participation in the FF-SHOP throughout the plan year?

A10: Yes. The FF-SHOP will only check minimum participation rates one time per year, i.e., at initial enrollment and at renewal for the next plan year.

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Q11: If an employer in the FF-SHOP signs up during the November 15 – December 15 annual enrollment period, will the employer need to meet the minimum participation requirement upon renewal?

A11: Yes. The FF-SHOP will require all employers renewing the same QHP to meet the applicable minimum participation rate upon renewal.

Q12: In cases where an employer is reapplying for coverage, and employees apply after the close of the employer's open enrollment period, will all the other employees that previously applied need to reapply?

A12: When a new offer of coverage is made, employees will need to reapply for coverage and respond to the new offer. However, any information saved during the initial application will remain saved and the employee can use this information when reapplying for FF-SHOP coverage.

Q13: Will the FF-SHOP support, require, or disallow coverage of retirees?

A13: Yes. The FF-SHOP allows for coverage of retirees. This information will be reported on 834 enrollment transactions under the category of retirees. Retirees will not receive a different contribution amount through the FF-SHOP from other enrollees. All retirees, active employees, and dependents will be rated using the same under the standard age curve.

Q14: Will retirees be counted when determining the minimum participation rate?

A14: If a retiree is on an employer's roster, he or she will be included in the denominator of the minimum participation percentage equation.

Q15: Will the FF-SHOP collect data regarding employees currently in their waiting period? Will these employees count toward the SHOP minimum participation requirement?

A15: For initial FF-SHOP applications, any employee on the roster submitted by an employer will be eligible for coverage on the effective date of coverage for the group. Waiting periods will only be considered for new employees added to the roster after coverage has been effectuated for the group.

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Q16: Will the FF-SHOP support coverage for over age disabled dependents?

A16: To the extent over age disabled dependent coverage is required under state law and this requirement was reported by Issuers on their QHP applications, the FF-SHOP will support coverage for over age disabled dependents.

Group Application

Q17: Will the FF-SHOP allow multiple billing addresses for an employer group?

A17: No. The FF-SHOP will not allow multiple billing addresses for an employer group, however, a secondary contact may receive a copy of notifications sent to the primary contact.

Q18: Will the FF-SHOP collect ERISA status information for the group?

A18: The FF-SHOP is collecting standardized data on the types of groups enrolling, e.g., private sector-C corporation, governmental, etc. but will not collect ERISA status information for each group. See <http://www.reginfo.gov/public/servlet/ForwardServlet?SearchTarget=PRA&textfield=0938-1193> for the SHOP employer online questionnaire and associated data elements.

Q19: Will the FF-SHOP allow multiple classes of employees (owners, salaried, hourly) for an employer group?

A19: No. The FF-SHOP will not allow varying coverage for different classes of employees.

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Q20: What business rules can the employer specify for enrolling employees? (E.g., full-time only, no dependents, certain locations only, waiting period for new hires, etc.) How will the employer specify the business rules for enrolling employees?

A20: Employers participating in the FF-SHOP are required to offer coverage to all full-time employees (those working on average 30+ hours per week). Depending on state law, dependent coverage is optional when an employer establishes a group policy. Thus, an employer may be able to choose to offer employee-only coverage in the FF-SHOP and exclude dependents from enrolling. In terms of limiting coverage to certain geographic locations, the Patient Protection and Affordable Care Act requires all employers applying for FF-SHOP coverage to offer coverage to all full-time employees, regardless of geographic location, as a condition of FF-SHOP participation. (See 45 CFR § 155.710 Eligibility standards for SHOP)

As part of the initial application process, an employer will specify employees eligible for coverage on the employee roster. Issuers will only receive information on those employees who enroll from the roster. After the initial application, enrollment information passed to Issuers will already have factored in applicable new hire waiting periods and will specify when coverage must be effectuated.

Q21: How will the FF-SHOP capture any paper / documentation collected from an employer that needs to be provided to an Issuer and how will the FF-SHOP send the attachments (Example: Group Contract) to Issuers?

A21: In year one, contractual documents will not be transmitted through the FF-SHOP and will be handled separately between the employer and Issuer. It is CMS's intention to amend this process in the future.

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Q22: The draft paper employee application does not allow for dependents. Will this be corrected or will the online experience be required to cover dependents?

A22: Yes. Dependent coverage will be collected in the online experience. The paper application is an eligibility determination document that collects only employee-level information. The enrollment process for employees and dependents must be completed online. See <http://www.reginfo.gov/public/servlet/ForwardServlet?SearchTarget=PRA&textfield=0938-1194> for the SHOP employee online questionnaire.

COBRA

Q23: Will a group's existing COBRA members be calculated in the minimum participation rate for SHOP?

A23: An employer's roster of eligible employees will include COBRA enrollees. Thus, COBRA enrollees will be included in minimum participation rate calculations.

Q24: Will a group's existing COBRA members be rated in the FF-SHOP?

A24: Yes. A group's existing COBRA members identified on the employee roster will have premiums calculated in the FF-SHOP based on allowable rating factors, i.e., age and tobacco usage.

Q25: If an employer is allowed to enroll employees in COBRA, who (employer or employee) will pay the COBRA premium?

A25: Current insurance market standards and protocols for notifying employees and paying for COBRA coverage will remain unchanged in the FF-SHOP in 2014. For 2015 when the FF-SHOP will provide billing and payment services for all FF-SHOP employers, COBRA premiums will be included on the single employer invoice and employers will be expected to remit the full amount owed by the due date and no later than the end of the grace period.

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Effectuating Coverage

Q26: How will an employer select a new hire's waiting period prior to effectuating coverage?

A26: An employer will establish the group's new hire waiting period policy during the initial application process. There will be a drop-down box in the online employer application where the employer will select the waiting period. The available options will be 0, 15, 30, 45, and 60 days. Because coverage for new hires is always effectuated on the first of the month, the maximum waiting period option will be 60 days to ensure an employee's waiting period does not extend beyond the maximum allowable period of 90 days.

Issuers will not receive the waiting period start and end dates. Only the effective dates of coverage for new hires (incorporating applicable waiting periods) will be sent to Issuers.

Q27: Since the FF-SHOP will not be calculating participation rates during the November 15-December 15 special enrollment period, will Issuers receive a single enrollment file or a separate enrollment file for employers applying during this period of time?

A27: The FF-SHOP will send Issuers groups' enrollment files during this period in the same manner as will occur during the rest of the open enrollment period.

Q28: The payment redirect transmittal will include an effective date for proposed coverage, which is the date (mm/dd/yyyy) by which coverage will begin, assuming timely payment of the initial premium. Would an Issuer be required to effectuate coverage without receiving the first month's premium payment prior to the coverage effective date?

A28: Unless a state law requires otherwise, Issuers will not be required to effectuate initial group coverage without receiving the first month's premium payment prior to the coverage effective date.

Q29: Will Issuers be allowed to pend employee enrollment until the employer meets the required participation threshold?

A29: Pending employee enrollment will not be necessary since Issuers will not receive the group set up file or 834 enrollment transactions until the employer meets the participation rate.

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Q30: Since the FF-SHOP will require the employer to select a single QHP for employees in year 1, are the effectuation timeframes in 45 CFR § 156.260 tied to an employer selection or employee selection?

A30: The effective date of coverage is based on the employer selection of a QHP during the initial application process. For special enrollment periods, the effectuation date will depend on the employee's specific situation. See 45 CFR §155.420(d) for applicable employee circumstances.

Broker Issues

Q31: The FF-SHOP indicated that commissions for groups sold through the FF-SHOP must be similar to commissions sold outside the FF-SHOP. Does this apply to an Agent who is not appointed by an Issuer?

A31: Unless state law requires otherwise, an Issuer would not be expected to pay a commission to a Broker who is not appointed with the Issuer.

Q32: What measures will be in place to ensure that a Broker is certified and authorized to service an employer in the FF-SHOP?

A32: Consistent with 45 CFR § 155.260, an Agent or Broker operating in the FF-SHOP is required to sign a privacy and security agreement with the Marketplace. While Agents and Brokers operating in the FF-SHOP will be encouraged to complete Marketplace training, the final Exchange regulations do not require such training as a condition of participation in the FF-SHOP.

Q33: What happens if a Broker attempts to create a quote for an employer after another Broker already started the workflow for that employer?

A33: The FF-SHOP is not taking responsibility for competition between Brokers for employer business. It is the employer's decision to work with a particular Broker and to enter the appropriate name and National Producer Number of the Agent or Broker associated with the employer application when applying online.

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Q34: Can the employer add, change, or remove an associated Broker within the FF-SHOP? If the answer is yes, what security will be in place to ensure that the Broker is authorized to work with the employer?

A34: CMS intends to allow an employer enrolled in FF-SHOP coverage to add, change, or remove the Broker of record from within his or her secure My Account. Only a validated employer can make a Broker of record change.

Q35: Can one Broker work with some employees in a group while a different Broker works with other employees within the same group?

A35: No. The employer determines the Broker relationship. All employees will have the same Broker associated with a SHOP employer.

Q36: What happens when a Broker ceases to provide service to the employer group due to retirement, loss of license, etc.?

A36: It is the responsibility of the employer to manage the Broker/employer relationship. If a Broker retires or loses his or her license, the employer will need to find an alternate Broker.

Renewals

Q37: How will renewals work in the FF-SHOP?

A37: Renewal information in the FF-SHOP can found in the final regulations at 45 CFR §155.725. The FF-SHOP will be managing renewal notifications, and CMS intends to involve Brokers in the renewal process. Employers will be notified of the option to renew SHOP coverage 90 days prior to the end of the plan year. At that time, the employer will be given a 30-day window to make employer-level changes. After the employer makes necessary changes, employees will be given the next 30 days of the 90-day renewal window to make their coverage selections for the new plan year. If the employer elects to have the same coverage for the following plan year, employees will be automatically renewed into the same QHP unless they take other action during their renewal timeframe. The remaining 15 days can be used to follow up with late renewals and process enrollment applications, which need to be submitted 15 days prior to the start of the new plan year.

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Other Reporting

Q38: As stated in 45 CFR § 155.720(i), the FF-SHOP is required to report to the IRS on employer participation, employer contribution, and employee enrollment information in a time and format to be determined by CMS. What employer contribution information are Issuers required to report to the FF-SHOP? How will this information be collected?

A38: 45 CFR § 155.720(i) does not place a reporting requirement on Issuers to the FF-SHOP.

Shopping Experience

Q39: Can you describe the process for the employer to pick a product to offer employees? Can the employer run “what if” premium cost scenarios?

A39: As part of the application process, an employer will be able to enter basic demographic information on employees and dependents likely to participate in an employer group’s FF-SHOP plan and be able to run “what if” premium scenarios.

Q40: If an employer group in the FF-SHOP allows coverage of domestic partners but an Issuer’s business rules do not cover domestic partners, will the plans be excluded from the available options?

A40: The QHP application process provides information on which dependents are required to be covered in a state. Depending on how an Issuer responded to allowable dependent coverage questions on its QHP application, the domestic partner relationship identifier would be populated in the list of available dependent relationship identifiers on the employee online application. Issuers would be expected to cover required dependents accordingly.

Q41: For the FF- SHOP, will Issuers have the ability to impose contribution rates, even though CMS is not setting a specific contribution amount?

A41: No. Issuers will not have the ability to impose minimum contribution rates for groups participating in the FF-SHOP. CMS may provide educational information to employers—alerting them of any state minimum contribution requirements. For states with a minimum contribution requirement, the statute and pertinent market rules do not allow for a minimum contribution requirement during the November 15 – December 15 annual special open enrollment period.



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Summary of Benefits and Coverage (SBCs)

Q42: Can CMS describe how an Issuer's Summary of Benefits and Coverage (SBCs) will be made available to a group's benefits administrator and to a group's members during open enrollment for the FF-SHOP?

A42: Existing Issuer requirements regarding making Summary of Benefits and Coverage (SBCs) available to a group's benefits administrator and a group's members have not changed.